

Exhibit No. # 2Date 1-21-09Bill No. SB 226

**Licensure for Volunteer Dentists Providing Charitable Care**  
**State Statutes**

A growing number of states (we are aware of 27 at present) are providing dental boards the authority to license volunteer, generally retired, dentists who agree to donate their services to underserved populations, in an attempt to improve access to dental care. Some states allow only their own previously licensed dentists to qualify for this type of license, whereas others will grant these licenses to dentists who are licensed in any jurisdiction in the U.S. Not addressed in this document are states that allow dentists from other states to provide volunteer care during declared emergencies without an in-state license.

Summaries of the state statutes and/or regulations concerning licensing of retired volunteer dentists are provided below. Contact the American Dental Association, Department of State Government Affairs for more information. For specific details on a particular state please contact the state dental board.

**Arizona**

32-1236 Allows licensed dentists who are over age 65 and retired or disabled to provide dental services in a charitable institution upon being granted retired or disabled licensure status by the dental board but the dentist must first relinquish any prescribing privileges. License renewal fees are at a reduced rate.

**California**

California statute § 1716.1, "Renewal Fees," provides that the Dental Board of California may, by regulation, reduce the renewal fee for a licensee who has practiced dentistry for 20 years or more in California, has reached the age of retirement, and customarily provides his or her services free of charge to any person, organization, or agency. Any charges made shall be nominal and in no event shall the aggregate of these charges in any single calendar year be in an amount that would render the licensee ineligible for full social security benefits. The statute further states that the board shall not reduce the renewal fee to an amount less than one-half of the regular renewal fee.

**Colorado**

Colorado statute § 12-35-136, "Retired Licenses," permits a dentist in retired status to provide dental services on a voluntary basis to the indigent, if such services are provided on a limited basis and no fee is charged. The statute further states that such dentists shall have immunity from liability for voluntary care provided pursuant to this section. In 2007 a law was enacted that exempts dentists and hygienists from obtaining a Colorado license, if they are invited into the state by any group of Colorado licensed dentists or hygienists. These persons may practice as volunteers for 5 consecutive days a year. (2007 S 152)

**Connecticut**

Any person who practices dentistry for no fee, for at least one hundred hours per year at a public health facility . . . and does not otherwise engage in the practice of dentistry, shall be eligible to renew a license . . . for a fee of one hundred dollars. Retired dentists in Connecticut who provide free dental care for 100 hours per year at a public health facility are now eligible to renew their licenses at a reduced fee. Dentists currently pay \$450 to renew their licenses.

**Delaware**

Section 1106(a), Title 24 of the Delaware Code

(15) Issue a Volunteer License to an individual who is duly licensed as a dentist or dental hygienist in this State or to any individual who has ever been so licensed provided proof of continued competence is provided to the satisfaction of the Board. Such individuals shall certify on the license application that he or she will perform no dental or dental hygiene services for any direct compensation and that

he or she volunteers his or her time exclusively in a non-profit dental clinic or non-profit dental service designated by the Delaware Health Care Commission and approved by the Delaware Board of Dental Examiners. A Volunteer License shall be issued at no charge to a qualified individual approved by the Board. All other costs associated with meeting the requirements for such license will remain the responsibility of the applicant. The applicant for a Volunteer License shall be responsible for completing the continuing education required for an active Delaware licensee by the Board and shall adhere to all standards of practice and supervision required of a Delaware licensed dentist or dental hygienist. Any dentist or dental hygienist having a Volunteer License shall not practice dentistry or dental hygiene in this State in any setting other than in an approved non-profit dental clinic or non-profit dental service."

Sections 1196 et. seq. enacted in 2008 provide the requirements for obtaining and maintaining volunteer licensure for dentists, hygienists and dental assistants who work without compensation in charitable clinics. The law clarifies that the license is site specific and the licensee must work under a dentist's supervision. Applicants for volunteer licensure from other states and Canada can apply if qualifications are met.

### **Georgia**

Georgia statute § 43-11-52, "Georgia Volunteers in Dentistry Act" states the Georgia Board of Dentistry may provide special licensing for retired dentists in Georgia who would provide uncompensated care to indigent patients. The dental board may also waive all exams and licensure fees in issuing this type license but the dentist must show currency in continuing education otherwise the license will expire after six months. The dentist must sign an affidavit stating he or she will not practice for compensation.

### **Idaho**

Section 54-935, Idaho Code Retired dentists and hygienists may qualify for a "volunteer's license" issued by the Board of Dentistry.. A licensee practicing within the permissible scope of a volunteer's license is immune from civil liability for non-negligent treatment provided to patients.

### **Louisiana**

Section 761.1. Retired volunteer dental license; issuance; applicant's requirements; validity; denial; violations; status change; continuing dental education A. The board may issue a retired volunteer dental license to an applicant to practice dentistry in a community health care clinic as defined in R.S. 9:2799.5(D)(1). Holders of a retired volunteer dental license shall submit with the application to the board a notarized statement that they shall not accept any form of remuneration directly or indirectly for providing dental services. Any application for licensure under this Section shall be in the form and manner designated by the board.

### **Maryland**

Maryland administrative code § 10.44.24, "Retired Volunteer Licenses," provides for licensure of retired Maryland dentists who wish to volunteer their services. To qualify for a volunteer license, the dentist must have had an active dental license in the previous two years, otherwise qualify for an active general dental license, except that the Northeast Regional Board examination requirements are waived by the Board, complete the continuing education requirements for an active general dental license in Maryland and practice only in specified volunteer settings, i.e. a dental clinic, hospital or volunteer entity operated by the state. When applying for the dental volunteer license, the applicant must submit evidence to the Board that the dentist will donate at least 100 hours of dental services without compensation and provide evidence of malpractice insurance coverage. Authority in Maryland Statute Section 4-308 (c)

Maryland statute § 4-304, "License Application," states that to apply for a retired volunteer dentist's license to practice dentistry, an applicant shall submit an application to the board and may not be required to pay an application fee.

**SB 341** (enacted into law 5/13/03.). Establishes a volunteer dentist license. To qualify, the applicant would have to hold an active license in another state or in the District of Columbia, complete the continuing education requirements that the board establishes for the license and provide dental services exclusively in specified volunteer settings.

#### **Michigan**

H 6392 (PA 591) enacted into law 12/30/2006 adds section 16184 to the dental practice act that provides that an individual who is retired from the active practice of dentistry, or other health professions, and who wishes to donate their expertise for the dental care of indigent and needy individuals or for the dental care and treatment of individuals in medically underserved areas of this state may obtain a special volunteer license to do so. A dentist retired for 3 or more years must show they have taken 2/3 of required CE to obtain the special license. Dentists are granted immunity and not required to have personal malpractice insurance. The person must not obtain payment for the care rendered and are subject to all provisions of the dental practice act including continuing education requirements. The board may not charge a fee for the license or for renewals of the license.

#### **Minnesota**

A new law enacted in 2003, S 13, exempts, from the continuing education requirements, a dentist who has retired and limits the provision of dental services to those offered without reimbursement in a public health, community or tribal clinic or a nonprofit organization that provides services to the indigent or to recipients of the medical assistance, general assistance medical care, or MinnesotaCare programs. This law also creates an alternative pathway for dental licensure similar to the New York PGY-1 law. Applicants for initial dental licensure may either pass a clinical exam or complete an accredited one-year postdoctoral dental residency program that includes an outcome assessment evaluation of the resident's competency. Provides for two types of faculty dentist license: "limited" (as found in existing statute) and "full." Full faculty dentist licensure would allow the holder to practice dentistry both inside and outside of the dental school (neither of which is allowed under a limited faculty dentist license), as long as he or she remains employed by the school at least 50% time. Holders of either type of license relinquish the license once they leave faculty employment.

#### **Montana**

**HB 65** (Enacted: 3/17/03). Would allow a retired or nonpracticing dentist whose license has been lapsed for five years or less to apply for a license to practice dentistry for the purpose of providing services to indigent or uninsured patients in underserved or critical need areas. Such licensees would not be permitted to receive remuneration for their services.

If the dentist's license has been lapsed for five years or less and the person applies for a license prior to July 1, 2004, the person's renewal fees and late fees accrued since the person's license lapsed are waived. The board is permitted to adopt rules providing that renewal fees and late fees or a portion of those fees may be waived for eligible persons applying for a retired dentist volunteer license after July 1, 2004.

#### **Nebraska**

Section 25-21,188.02 (1) Revised Statutes Cumulative Supplement, 2006

A person credentialed under the Uniform Licensing Law Credentialing Act to practice as a physician, osteopathic physician, pharmacist, dentist, physician assistant, nurse, or physical therapist who, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services, of a kind which are eligible for reimbursement under the medical

assistance program established pursuant to the Medical Assistance Act, as a volunteer in a free clinic or other facility operated by a not-for-profit organization as defined in section 25-21,190, by an agency of the state, or by any political subdivision shall be immune from civil liability for any act or omission which results in damage or injury unless such damage or injury was caused by the willful or wanton act or omission of such practitioner.

#### **New Hampshire**

New Hampshire statute § 317-A:8, "Applications," provides that a temporary license may be issued, at the discretion of the board, to dentists for the provision of voluntary dental services. To qualify for such licensure, the applicant shall be eligible for licensure by examination or endorsement certification in New Hampshire as a dentist and have a license in good standing in another state or in a Canadian province.

#### **North Carolina**

North Carolina statute § 90-37.1, "Limited Volunteer Dental License," provides authority for the North Carolina State Board of Dental Examiners to issue a "Limited Volunteer Dental License" to practice dentistry, without compensation, only in nonprofit health care facilities serving low-income populations. An applicant must have a North Carolina or out-of-state current or expired dental license or be authorized to treat veterans or personnel enlisted in the US armed services. The applicant must also evidence he/she has practiced dentistry for at least five years and has practiced dentistry within the past five years. The Board may also issue the license to an applicant who demonstrates that they have the requisite education, training, and qualifications.

In 2007 a new section was added to the General Statutes 90-37.2 *Volunteer dentists*. Which allows the NC Board of Dental Examiners to issue a temporary volunteer permit to allow dental school graduates who are licensed in another state to practice dentistry under the supervision of a dentist licensed in NC. Sets conditions on the permits including conditions on permit duration, scope of practice, and compensation.

Applicants are required to submit an application and pay an initial fee of \$100 and a renewal fee of \$25 (NC statute §90-39). Holders of the "Limited Volunteer Dental License" must also comply with the continuing dental education required by the Board. The administrative code section concerning Limited Volunteer Dental Licenses can be found at 21 NC ADC 16B.0501

#### **North Dakota**

North Dakota administrative code § 20-02-01-04.2, "Volunteer License to Practice Dentistry," provides that the board may grant a volunteer license to practice dentistry in North Dakota, renewable annually by application to the board. To be eligible the dentist must be formerly licensed in North Dakota, agree to provide primary health services without remuneration in a board-approved setting, hold current CPR certification, complete continuing education requirements of the board and pay an application and licensee fee. The fee for a volunteer dental license is thirty-five dollars (§ 20-05-01-01)

#### **Ohio**

Ohio statute § 4715.42, "Volunteer Certificate," permits the state dental board to issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide dental services to indigent and uninsured persons at nonprofit shelters or health care facilities. An applicant must provide evidence that they have maintained full licensure for at least ten years prior to retirement in any jurisdiction of the US. Holders of the certificate shall not accept any form of remuneration for providing dental services while in possession of the certificate. The board shall not charge a fee for issuing or renewing a volunteer certificate. To be eligible for renewal of a volunteer's certificate, the holder must certify completion of sixty hours of continuing dental education.

Volunteer certificate holders are subject to the immunity provisions provided for in § 2305.234, "Immunity of volunteer health care professionals and workers and of nonprofit shelters and facilities." To qualify for such immunity, the dentist must inform the person of the immunity provision, obtain the informed consent of the person and a written waiver and determine, in good faith, that the indigent person is mentally capable of giving his or her informed consent.

### **Oklahoma**

Established a special volunteer dental license for retired dentists who wish to donate their services to the indigent and persons in underserved areas; no fee is required.

Section 328.23a of Title 59, reads in part as follows: A. There is established a special volunteer dental license for dentists who are retired from active practice and wish to donate their expertise for the dental care and treatment of indigent and needy persons of the state. The special volunteer dental license shall be:

1. Issued by the Board of Dentistry to eligible dentists;
2. Issued without the payment of an application fee, license fee or renewal fee;
3. Issued or renewed without any continuing education requirements

### **Pennsylvania**

Pennsylvania administrative code § 33.110, "Volunteer License," implements the Volunteer Health Services Act (35 P.S. § 449.41 -- .50) and provides for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. Such licensees are authorized to practice only in an organized community-based clinic without remuneration. Applicants must hold a currently renewed, active, unrestricted license in Pennsylvania and retire from active practice at the time the licensee applies for a volunteer license. A retired licensee must meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal. The license will be subject to biennial renewal and as a condition of renewal, the applicant must satisfy the same continuing education requirements as the holder of an active, unrestricted license. Volunteer license holders will not be subject to any fee for the issuance, reissuance or renewal of a permit. The Volunteer Health Services Act was amended in 2002 to permit non-retired health care practitioners to obtain volunteer licenses. The 2002 amendments also included indemnity and defense provisions for health care practitioners providing health care services at approved clinics without remuneration under active non-volunteer licenses.

### **Rhode Island**

In 2007 H 5383 and S 658 were enacted creating a special class of license for retired dentists and dental hygienists to allow them to practice dentistry or hygiene for no compensation in volunteer nonprofit situations. Requires these licensees to have fulfilled current Continuing Education requirements. Licensure fees are waived.

### **South Carolina**

South Carolina statute § 40-15-177, "Restricted Volunteer License for Certain Dentists and Dental Hygienists," permits the State Board of Dentistry to issue a restricted volunteer license to a dentist who has held a dental license in another state, has passed an examination by the Board and has at least five years of clinical practice. The dentist must only practice in clinics prescribed by the board in regulation, only treat patients who have no insurance or who are not eligible for financial assistance for dental treatment and may not receive remuneration directly or indirectly for providing dental services. The license must be renewed annually in accordance with continuing education requirements and procedures as may be established by the board in regulation (such regulations have yet to be adopted).

### **Tennessee**

Tennessee administrative code § 0460-2-.01. "Licensure Process," provides that applicants who intend to practice dentistry exclusively without compensation on patients who receive dentistry services from organizations granted a determination of exemption pursuant to § 501(c)(3) of the IRS Code may obtain an inactive volunteer license. Applicants who currently hold a Tennessee dental license must retire their active license and certify they will practice dentistry only on patients of a qualified entity. Applicants who do not currently hold a valid Tennessee dental license must comply with the traditional statutory dental applicant provisions. Inactive volunteer licensees are subject to all rules governing renewal, retirement, reinstatement, reactivation and continuing education provided for in statute. The Inactive Volunteer Renewal Fee will be \$30, to be paid biennially (§0460-1.02(j)).

### **Texas**

Section 257.002 (d-2), Occupations Code, added by 2007 H.B. 643 Some retired dentists who wish to do charity work in their communities have inadvertently allowed their licenses to expire for longer than a year and are unable to provide charity care. allows the board to renew the license of a dentist who fails to renew his license for a year or more provided that the dentist places his renewed license on retired status and confines his practice to charity care.

### **Utah** § 58-69-306. Exemptions from licensure

In addition to the exemptions from licensure in Section 58-1-307:

- ...
- (2) a person licensed in good standing as a dentist in another state, with no licensing action pending and no less than ten years of professional experience, may engage in the practice of dentistry without being licensed under this chapter if:
    - (a) the services are rendered as a public service and for a noncommercial purpose;
    - (b) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and
    - (c) the individual does not otherwise engage in unlawful or unprofessional conduct.

### **Virginia**

Section 54.1-2721. Display of license. Every person practicing dentistry in this Commonwealth shall display his license in his office in plain view of patients. Any person practicing dentistry without having his license on display shall be subject to disciplinary action by the Board. The provisions of this section shall not apply to any dentist while he is serving as a volunteer providing dental services in an underserved area of the Commonwealth under the auspices of a Virginia charitable corporation granted tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and operating as a clinic for the indigent and uninsured that is organized for the delivery of primary health care services. Section 54.1-2901 (27) Relates to charitable medical events; allows doctors, dentists and dental hygienists, nurses, optometrists, pharmacists, psychologists, and veterinarians who are licensed and in good standing in another state, to participate in charitable medical events in the state for up to three days without prior notice to the applicable licensing board; amends provisions for nurses who meet specified criteria; includes blood tests and testing for lead.

### **West Virginia**

A 2008 law (Section 30-4-8a) supported by the WVDA allows the Board of Dental Examiners to issue a volunteer license to retired dentists who wish to donate services to patients in free dental clinics. It provides civil immunity to dentists holding a volunteer license. It allows the Board to establish continuing education requirements for dentists with a volunteer license. The law also applies to dental hygienists and other types of licensed practitioners.

### **Wyoming**

**HB 149** (Enacted: 3/4/03). Provides that the state board of dental examiners may issue, with or

without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide dental services to low income uninsured persons at nonprofit health care facilities. To qualify, an applicant must evidence that she or he has maintained for at least ten years immediately prior to retirement full licensure in any jurisdiction in the United States or that the applicant has practiced for at least ten years immediately prior to retirement as a dentist in one or more of the branches of the United States armed services. Certificate holders shall not accept any form of remuneration for providing dental services while in possession of the certificate.

The volunteer's certificate is valid for one year and may be renewed upon the application of the holder. To be eligible for renewal of a volunteer's certificate, the certificate holder must certify the completion of any required continuing education as if the holder of the certificate were in active practice. The board is not permitted to charge a fee for issuing or renewing a volunteer's certificate.